

# TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

## Before the Federal Communications Commission Washington D.C.

In the Matter of

Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our	)	GN Docket No. 09-51
Future	)	
	)	
Establishing Just and Reasonable Rates	)	WC Docket No. 07-135
For Local Exchange Carriers	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation	)	CC Docket No. 01-92
Regime	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

### Comments of the Tennessee Regulatory Authority

The Tennessee Regulatory Authority (“TRA”) appreciates the opportunity to comment on the substance of the FCC’s *Further Inquiry Into Certain Issues In The Universal Service-Intercarrier Compensation Transformation Proceeding* (“*Further Inquiry*”). Unfortunately, the comment cycle established by the FCC provides insufficient time for substantive review and analysis of the recently released America’s Broadband Connectivity Plan (“ABC Plan”), its relationship to the goals set forth in the National Broadband Plan (“NBP”) and its impact on the rural telephone providers in our state. Given the limited time to provide comments and the rejection of the requests filed by NARUC and NASUCA to extend the timeframe for filing comments, the TRA’s comment will focus on the proper role of state commissions in the reform of the system

of intercarrier compensation and universal service relative to the role set forth in the ABC Plan.<sup>1</sup>

After a review of the ABC Plan, it is clear that it pre-empts state authority over intrastate access rates. The TRA joins the comments of NARUC concerning the impermissibility of pre-emption of state authority over intrastate access rates. For the purpose of brevity, the TRA will not reiterate the long-established arguments establishing the advantages of state commissions' involvement in decisions vitally intertwined with the financial health of small and rural carriers and affordability of consumer telephone rates.

The *Further Inquiry* seeks comment on how the ABC Plan's proposal for intrastate access reform will "...affect states in different stages of intrastate access reform – those that have undertaken significant reform and moved intrastate rates to parity with interstate rates, those in the process of reform, and states that have not yet initiated reform?"<sup>2</sup> Earlier this year, the Tennessee General Assembly passed the Uniform Access, Competition, and Consumer Fairness Act of 2011, which provided a definitive timeline to reduce intrastate switched access rates to parity with interstate rates. A copy of the Uniform Access, Competition, and Consumer Fairness Act of 2011 is provided as an attachment. The TRA asserts the FCC should not pre-empt states that have taken significant steps to bring intrastate rates into parity with interstate rates. The General Assembly established the timeframe after extensive hearings involving all stakeholders. More importantly, the decision was reached based upon factors specific to Tennessee that should not be swept aside by the one-size-fits-all approach of the ABC Plan.

While the TRA does not endorse pre-emption of state authority over intrastate rates, in any event, at a minimum, the FCC should review legislation and regulatory orders that that bring intrastate rates to parity with interstate rates. The FCC should respect the timetable establishing these changes as long as they are not unreasonably longer than the ultimate federal decision. Such an approach would not frustrate federal policy making and would preserve the thoughtful consideration of state-specific factors in reforming the intercarrier compensation system. Another approach to preserve state-established intrastate-interstate parity pricing would be to allow states to petition the FCC for preservation of their plans. The FCC would need to rule on such petitions in an expedited time frame, but such a process would provide a vehicle to preserve the fact-based decisions reached at the state level.

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<sup>1</sup> DA-11-2174 issued on August 8, 2011.

<sup>2</sup> *Further Inquiry*, pp. 10-11.

Dated: August 24, 2011

Respectfully submitted,

The Tennessee Regulatory Authority



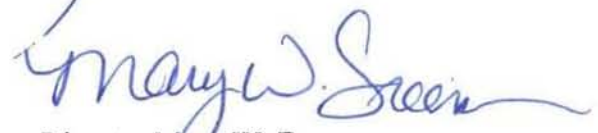
Chairman Eddie Roberson



Director Sara Kyle



Director Kenneth C. Hill



Director Mary W. Freeman



**State of Tennessee**  
**PUBLIC CHAPTER NO. 68**

**SENATE BILL NO. 598**

**By Norris, Southerland, Tate, Gresham, Harper, Ketron, Marrero, Overbey**

Substituted for: House Bill No. 574

By McCormick, Michael Turner, McDaniel, Maggart, Carr, White, Todd, Curtis Johnson, Phillip Johnson, Sargent, Rich, Eldridge, Camper, Lollar, Casada, Sontany, Dean, Roach, Harrison, Dennis, Kent Williams, Armstrong, Gilmore, Shipley, Montgomery, Moore, Sherry Jones, Favors, Coley, Shaw, Brown, Parkinson, McManus, Harry Brooks

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 5, relative to switched access services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 5, is amended by adding the following language as a new, appropriately designated part:

65-5-301. Short Title

This part shall be known and may be cited as the "Uniform Access, Competition, and Consumer Fairness Act of 2011".

65-5-302. Required Parity for Interstate and Intrastate Access Rates and Rate Structures

(a) For the purposes of this part:

(1) "Entity" means an entity that provides switched access service and is a public utility as defined in § 65-4-101 or a telephone cooperative governed by Chapter 29 of this title;

(2) "Interstate switched access charges" means charges for switched access services for interstate toll telecommunications services;

(3) "Intrastate switched access charges" means charges for switched access services for intrastate toll telecommunications services; and

(4) "Switched access services" means the utilization of switching and related facilities for the origination or termination of toll telecommunications services of other service providers.

(b) Notwithstanding any law to the contrary and consistent with this part, any entity that provides switched access service shall be prohibited from imposing intrastate switched access charges that exceed the interstate switched access charges imposed by the entity, and shall utilize the same rate structure for the provision of intrastate switched access service that the entity uses for the provision of interstate switched access service; provided, however:

(1) Until such time as rules governing the funding of the Tennessee relay service have been promulgated and have taken effect pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, and § 65-21-115, an entity may include in its intrastate switched access charges as a separate intrastate switched access rate element an additur established by the Tennessee regulatory authority for the purpose of maintaining the Tennessee relay service consistent with § 65-21-115, such amount not to exceed the additur established as of the effective date of this act;

(2) Any entity that, as of the effective date of this act, is imposing intrastate switched access charges that, on an average per minute basis, are

higher than the average per minute interstate switched access charges imposed by the entity, shall, no later than April 1, 2012:

(A) Establish an intrastate switched access rate structure that is the same as its interstate switched access rate structure; and

(B) Implement revised intrastate switched access charges to effectuate a reduction of at least twenty percent (20%) in the difference between the average per minute intrastate switched access rate in effect for the entity on the effective date of this act and the average per minute interstate switched access rate in effect for the entity on the effective date of this act;

(3) Any entity effectuating a reduction in its intrastate switched access rates pursuant to subdivision (b)(2) shall, on or before April 1, 2013, implement revised intrastate switched access charges to effectuate a reduction of at least forty percent (40%) in the difference between the average per minute intrastate switched access rate in effect for the entity on the effective date of this act and the average per minute interstate switched access rate in effect for the entity on the effective date of this act;

(4) Any entity effectuating a reduction in its intrastate switched access rates pursuant to subdivision (b)(2) shall, on or before the April 1, 2014, implement revised intrastate switched access charges to effectuate a reduction of at least sixty percent (60%) in the difference between the average per minute intrastate switched access rate in effect for the entity on the effective date of this act and the average per minute interstate switched access rate in effect for the entity on the effective date of this act;

(5) Any entity effectuating a reduction in its intrastate switched access rates pursuant to subdivision (b)(2) shall, on or before April 1, 2015, implement revised intrastate switched access charges to effectuate a reduction of at least eighty percent (80%) in the difference between the average per minute intrastate switched access rate in effect for the entity on the effective date of this act and the average per minute interstate switched access rate in effect for the entity on the effective date of this act; and

(6) Any entity effectuating a reduction in its intrastate switched access rates pursuant to subdivision (b)(2) shall, on or before April 1, 2016, implement revised intrastate switched access charges that do not exceed the interstate switched access charges imposed by the entity.

(c) An entity that implements an increase in an intrastate switched access rate element between February 1, 2011, and April 1, 2012, and that is transitioning its intrastate access rates as provided in subdivisions (b)(2)-(6), shall reduce such intrastate switched access rate element to the rate in effect on January 31, 2011, no later than April 1, 2012, and shall effectuate the reductions required by subdivisions (b)(2)-(6) using the average per minute intrastate switched access rate in effect for the entity on January 31, 2011, instead of the average per minute intrastate switched access rate in effect for the entity on the effective date of this act.

(d) A competing telecommunications service provider, as defined in § 65-4-101, may provide by tariff that its intrastate switched access charges are the same as those of the incumbent local exchange telephone company, as defined in § 65-4-101, for whose service area the competing telecommunications service provider is offering intrastate switched access service, and be deemed thereby to comply with subsections (b) and (f), and the requirement in subsection (g) to set forth intrastate switched access rates and a rate structure in a tariff or price list.

(e) Notwithstanding any law of this state or requirements of the Tennessee regulatory authority to the contrary, an entity that transitions its intrastate access rates as provided in subdivisions (b)(2)-(6), shall be entitled, but not required, to adjust its retail rates each year to recover any revenue losses resulting from its revision of intrastate switched access rates and rate structure. The Tennessee regulatory authority may not review or regulate such retail rate adjustments.

(f) To the extent the interstate switched access rates or rate structure of an entity change consistent with applicable federal law, then the entity shall have thirty (30) days to implement the same changes for its provision of intrastate switched

access services. Notwithstanding the implementation of any change authorized by this subsection (f), to the extent that an entity is implementing revisions to its intrastate switched access rates in accordance with subdivisions (b)(2)-(6), the entity shall continue to revise its rates in accordance with subdivisions (b)(2)-(6) and, on or before April 1, 2016, and thereafter, such entity shall have the same rates and rate structures for the provision of both intrastate and interstate switched access services.

(g) No later than April 1, 2012, any entity that is providing switched access service shall file and thereafter maintain a tariff or price list with the Tennessee regulatory authority setting forth its intrastate switched access rates and rate structure.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 598

PASSED: March 28, 2011

A handwritten signature in black ink, appearing to read "Ron Ramsey".

RON RAMSEY  
SPEAKER OF THE SENATE

A handwritten signature in black ink, appearing to read "Beth Harwell".

BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 12<sup>th</sup> day of April 2011

A handwritten signature in black ink, appearing to read "Bill Haslam".

BILL HASLAM, GOVERNOR